

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LAWRENCE LANDRUM,

Case No. 2:12-cv-859

Petitioner,

Judge Thomas M. Rose

v.

CHARLOTTE JENKINS, Warden,
Chillicothe Correctional Institution,

Respondent.

**ENTRY AND ORDER OVERRULING PETITIONER'S OBJECTIONS
(DOCS. 27, 34); ADOPTING SUPPLEMENTAL REPORT AND
RECOMMENDATIONS; TRANSFER ORDER (DOC. 24) AND
SUPPLEMENTAL OPINION ON RECOMMITTAL (DOC. 32); AND
TRANSFERRING CASE TO THE SIXTH CIRCUIT FOR DETERMINATION
UNDER 28 U.S.C. § 2244(b)(3) WHETHER IT MAY PROCEED**

This habeas corpus case is before the Court on the Objections (Docs. 27, 34) filed by Petitioner Lawrence Landrum ("Landrum") to the Supplemental Report and Recommendations; Transfer Order ("Supplemental Report") (Doc. 24) and Supplemental Opinion on Commitment ("Supplemental Opinion") (Doc. 32). In the Supplemental Report, Magistrate Judge Michael R. Merz withdrew his prior Report and Recommendations (Doc. 19), which recommended that the Court grant the Respondent Warden's Motion to Dismiss (Doc. 15), and ordered that this case be transferred to the United States Court of Appeals for the Sixth Circuit for determination under 28 U.S.C. § 2244(b)(3) whether Landrum's Petition for Writ of Habeas Corpus (Doc. 4) may proceed. The Magistrate Judge stayed transfer of the case pending the Court's consideration of any objections to the Supplemental Report. (Doc. 24 at PageID 294.)

After Landrum filed Objections (Doc. 27) to the Supplemental Report, the Court

recommitted the matter to the Magistrate Judge for further analysis. (Doc. 23.) The Magistrate Judge provided the requested analysis in the Supplemental Opinion (Doc. 32), which addressed Landrum's Objections, stood by the analysis in the Supplemental Report, and continued the stay of the transfer order pending the Court's consideration of any further objections. (Doc. 32 at PageID 433.) Landrum filed Objections (Doc. 34) to the Supplemental Opinion, in response to which the Warden filed a Response (Doc. 35). This matter is now ripe for the Court's review.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Landrum's Objections (Doc. 27) to the Supplemental Report (Doc. 24) and Objections (Doc. 34) to the Supplemental Opinion (Doc. 32) are not well taken and they are hereby **OVERRULED**. The Court **ADOPTS** the Supplemental Report (Doc. 24) and Supplemental Opinion (Doc. 32) in their entirety and rules as follows:

- Stay of the transfer order in the Supplemental Report (Doc. 24) is **TERMINATED**; and
- Because Landrum's Petition for Writ of Habeas Corpus (Doc. 4) is second or successive within the meaning of 28 U.S.C. § 2244(b)(2), this case shall be **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit for determination under 28 U.S.C. § 2244(b)(3) whether it may proceed in this Court.

DONE and **ORDERED** in Dayton, Ohio, this Tuesday, February 16, 2016.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE